

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES
TO THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) CORPORATE LABOR ADDITIVE RATES
FOR THE YEARS ENDED
SEPTEMBER 30, 1998 AND 1997**



**CHARLES C. MADDOX, ESQ.
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



April 2, 2003

Deno Bokas
Acting Controller
Amtrak Corporation
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002

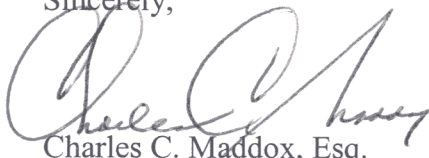
Dear Mr. Bokas:

Enclosed is our final report summarizing the results of the Office of the Inspector General's (OIG) *Independent Accountant's Report on Applying Agreed-Upon Procedures to the National Railroad Passenger Corporation (Amtrak) Corporate Labor Additive Rates for the Years Ended September 30, 1998 and 1997*. The records reviewed cover the period October 1, 1996, through September 30, 1998. This audit was conducted by contract under the purview of the OIG.

Our audit report contained 3 recommendations made to the Acting Controller of Amtrak Corporation for necessary action to correct the described deficiencies. We received a response from Amtrak on March 19, 2003, to the draft of this report. Actions taken or planned by Amtrak were fully responsive to our recommendations. The complete text of the Amtrak's response is included at Exhibit C.

If you have questions, please contact me or William J. DiVello, Assistant Inspector General for Audits, at (202) 727-2540.

Sincerely,



Charles C. Maddox, Esq.
Inspector General

CCM/cj

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EXECUTIVE SUMMARY

The National Railroad Passenger Corporation (Amtrak) was created by the Rail Passenger Service Act of 1970, Pub. L. No. 91-518, 84 Stat. 1327 (1970) (codified as amended at 49 U.S.C. §§ 20101-28302 (1994)) and was incorporated under the laws of the District of Columbia to provide a balanced national transportation system by developing, operating, and improving U.S. intercity rail passenger service. Amtrak is governed by a seven-member Board of Directors with each member appointed by the President of the United States to a five-year term. Amtrak's President and Chief Executive Officer serves as an eighth, ex-officio, non-voting member of the board who manages three Strategic Business Unit Presidents. Amtrak operates as many as 263 trains per day, servicing 500 station locations over a system of approximately 22,000 route miles.

Under Federal Highway Administration (FHWA) regulations contained in 23 CFR Parts 140 and 646, a railroad company or the State can receive federal aid for projects involving the elimination of hazards of railroad highway crossings and other projects where a railroad company is not obligated to change its facilities at its own expense. The railroad company, or contractor hired by the State, can elect to be reimbursed at actual costs or at rates approved by the State Highway Administration (SHA) and the FHWA.

In addition to approval by FHWA, 23 CFR Part 140 also requires that the rates be approved by the SHA, which has jurisdiction over the railroad company. The District of Columbia Department of Public Works (DC-DPW) acts as the SHA for the District of Columbia government and is, therefore, the entity responsible for approving the rates proposed by Amtrak.

Amtrak's labor surcharge applied to contract billings in 1997 and 1998 were based on historical cost data. Additionally, Amtrak's material handling rate, general and administrative rate and equipment usage rate was based upon historical cost data for reimbursement on Federal Highway projects in lieu of claiming actual costs. Chapter 23 CFR Part 140, § 906, allows the rates to be developed from historical cost data or be representative of actual costs incurred.

Beginning with fiscal year 1994, Amtrak restructured its accounting system and began developing various rates under three broader categories as follows:

- Additive Applicable to Labor – The rate is developed from various cost pools (as described in the Additive Applicable to Labor Section of this report), which is applied to direct labor costs incurred on projects by the Maintenance of Way and Maintenance of Equipment Departments.

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- Material Handling Additive – The rate is developed from cost pools for procurement and material control responsibility centers. The rate is applied to all Amtrak materials used for projects.
- General and Administrative Applicable to Total Costs – The rate is developed from cost pools for general and administrative functions. The rate is applied to total project costs including total additive applicable to labor and material handling additive, if any. In fiscal year 1996, in order to reflect the company's reorganization into strategic business units (SBUs), the "general and administrative" rate was split into separate "SBU Support" overhead rates to reflect the Northeast Corridor, Intercity, Western and Corporate SBUs' general and administrative support functions.

Amtrak segregated its cost pools for field overhead and divisional overhead within the "additive applicable to labor" under the Maintenance of Way and Maintenance of Equipment into the following four Strategic Business Units and five divisions, respectively.

<u>Strategic Business Units</u>	<u>Divisions</u>
Northeast Corridor	Mid Atlantic
Intercity	Metropolitan
Western	New England
Corporate	Midwest
	Western

Owusu & Company was initially engaged by the DC-DPW, through the District of Columbia Office of the Inspector General (DC-OIG), to audit the Corporate Labor Additive Rates proposed by Amtrak for the years ended September 30, 1998 and 1997. However, at the onset of the audit, Amtrak personnel advised us that Amtrak did not compute actual cost rates for fiscal years 1998 and 1997, with the exception of rates in the "fringe benefit" category. Therefore, Amtrak utilized the fiscal year 1996 audited rates for recouping costs incurred during fiscal years 1998 and 1997. Owusu and Company communicated this fact to the DC-OIG in order to obtain guidance on how to proceed given that auditing these rates would have been redundant.

In light of these circumstances, DC-OIG and DC-DPW officials concluded that Amtrak's 1997 and 1998 rates should be reviewed pursuant to an engagement rather than an audit. Under the engagement approach, the rates at issue would be analyzed using certain agreed-upon procedures to thereby determine whether they were reasonable and applied consistently during 1997 and 1998. Consequently, the procedures enumerated in the Independent Accountant's Report were agreed to by the DC-DPW and performed by Owusu & Company.

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES TO AMTRAK'S CORPORATE LABOR ADDITIVE RATES

Deno Bokas
Acting Controller
Amtrak Corporation
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002

We have performed the procedures enumerated below, which were agreed to by the District of Columbia Office of Inspector General (DC-OIG), solely to assist you with respect to the accompanying Schedule of Corporate Labor Additive Rates of the National Railroad Passenger Corporation (Amtrak) for the years ended September 30, 1998 and 1997. Under the terms of the revised scope of service, we were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion, on the Schedule of Corporate Labor Additive Rates. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

Amtrak's management is responsible for the Schedule of Corporate Labor Additive Rates. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the DC-OIG. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

At the onset of the engagement, we were informed that Amtrak had not developed new rates for Additive Applicable to Labor, Material Handling Additive, and General and Administrative Applicable to Total Costs for either 1997 or 1998, but rather used the audited rates for fiscal year 1996 as the billable rates (See Finding 1 for details). With respect to these rates, we performed the following procedures:

- Compared costs incurred in fiscal year 1996 against costs incurred in fiscal year 1997 and also compared costs incurred in fiscal year 1997 against costs incurred in fiscal year 1998. The comparison was performed by accumulating costs by division and by department within each division to determine whether there were any material changes noted which would indicate a significant variance from the 1996 audited rates.

- Randomly selected and tested a sample of ten invoices billed during 1997 and 1998 to determine if the 1996 audited rates were consistently applied during the period of review.

The results of our tests found that there were no significant differences between the total expenses used to compute the audited rates for fiscal year 1996 and the total expense and cost pools for fiscal years 1997 and 1998. As such, we did not identify anything that would lead us to believe that the use of the previous year's rates was not justified. However, we did note that Amtrak did not consistently apply the 1996 audited rates on 2 of the 10 invoices selected for testing (See Finding 2 for details). Additionally, on 6 of the 10 invoices tested, Amtrak billed for a rate category that was not included in the 1996 audited rate schedule (See Finding 3 for details).

Amtrak did compute new cost rates for Fringe Benefit rates for fiscal years 1997 and 1998. With respect to these rates, we performed the following procedures:

- obtained an understanding of the fringe benefit rate computation;
- obtained supporting schedules for the various rate computations and reconciled to source documents;
- reviewed the pools for both exempt and non-exempt employees to determine conformance with the benefit policies applicable to each category of employees within each pool;
- reconciled the total base for each pool to underlying accounting records; and
- traced the premiums to documentation received from the various carriers.

The results of our testwork did not identify any reportable findings based on the agreed-upon procedures listed above. Further, the use of new employee benefit rates would not affect other cost rates because they are computed and applied separately.

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FINDING 1: Use of Unapproved Rates to Recover Reimbursable Costs

Amtrak did not obtain approval from the State Highway Administration (SHA) and the Federal Highway Administration (FHWA) prior to using the audited rates for fiscal year 1996 to recover reimbursable costs incurred in fiscal years 1998 and 1997.

Under FHWA regulations contained in 23 CFR Part 140, Section 906, the utilization of historically developed rates in lieu of actual rates requires approval by both the FHWA and SHA. In addition, 23 CFR Part 140, § 906 also requires that the historically developed rates be adjusted at least annually, taking into consideration known anticipated changes and correcting for any over- or under-applied costs for the preceding period.

Although the DC-DPW, which acts as the SHA, has subsequently accepted these rates in lieu of requiring Amtrak to calculate new rates for fiscal years 1998 and 1997, Amtrak did not obtain approval from FHWA to use the fiscal year 1996 rates. Additionally, the results of our tests found that the rates used by Amtrak during the fiscal years ended September 30, 1998 and 1997 were not adjusted to reflect any over- or under-applied costs.

RECOMMENDATION 1:

We recommend that Amtrak officials provide its rationale and methodology used to support the use of the audited fiscal year (FY) 1996 rates in lieu of computing new rates to recover reimbursable costs incurred in FYs 1997 and 1998, and obtain approval from FHWA for the use of these rates.

Amtrak Response

Amtrak officials stated in their response that in 1996 they underwent a reorganization which resulted in a change in personnel. Personnel shortages due to this reorganization and the fact that no significant differences were incurred between the total expense and cost pools used to compute the FY 1996 rates and the actual expenses for FYs 1997 and 1998, were the reasons why new overhead additives were not developed for FY 1997 or 1998, and the audited FY 1996 rates were applied to billable charges that were incurred during those years. Amtrak agreed to seek approval from the FHWA for the use of the FY 1996 rates in FYs 1997 and 1998.

OIG Comment

We consider Amtrak's response and proposed actions to be responsive to our recommendation.

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FINDING 2: Billable Rates Were Not Consistently Applied

To determine whether Amtrak consistently applied 1996 cost rates, we randomly selected and tested a sample of 10 invoices billed during 1997 and 1998. The results of our tests found that on 2 of the 10 invoices selected for testing, Amtrak billed at rates that were in excess of the 1996 rates. FHWA regulations contained in 23 CFR Part 140, § 906 require that, in addition to developing rates used in seeking reimbursement on eligible projects from current year cost pools, consistent application of approved cost rates is required. Amtrak could not provide any support for the rate discrepancies. We do not find it beneficial to require that Amtrak review all invoices submitted during the period to identify and remit any excess billings that occurred due to the use of rates in excess of the adopted fiscal year 1996 audited rates. However, while immaterial, we still question the appropriateness of the additional charges of \$150.21.

Below are the details related to the two invoices in which the rates billed were in excess of the fiscal year 1996 audited rates:

Project/ Invoice/ Division/Customer No.	Invoice Amount	Rate Category	Rate Billed	Audited Rate	Questioned Cost
861663 97023041009 Mid-Atlantic - 0003	\$2,290.85	C&S	64.44%	58.76%	\$130.12
861686/ 97023021018 Mid-Atlantic - 0006	\$353.70	Structure	64.28%	58.60%	20.09
Totals:	\$2,644.55				\$150.21

RECOMMENDATION 2:

We recommend that Amtrak officials review their billing procedures to identify how inconsistent rates were applied and establish procedures to ensure that only approved rates are charged and consistently applied.

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Amtrak's Response

In order to address this deficiency, Amtrak officials stated that they have implemented a new billing system that automates the application of overhead rates to invoices, and their consistent application. Additionally, invoices are audited on a random basis to ensure that the rates applied to billings are accurate. Lastly, Amtrak has hired a Finance Manager whose primary responsibility is the annual calculation of overhead additive rates.

OIG Comment

The actions taken by Amtrak should correct the conditions noted.

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FINDING 3: Rates Billed Were Not Included on Audit Schedule

Our review identified that on 6 of the 10 invoices selected for testing, Amtrak billed for a rate category (engineering) that was not included on the 1997-1998 rate schedule used for cost reimbursement. As stated in Finding No. 1, FHWA requires that all rates used be approved. While SHA has subsequently accepted the use of fiscal year 1996 rates, FHWA did not. Additionally, in fiscal year 1996, Amtrak did not charge for engineering, nor did they have approved or established rates for this category for fiscal years 1998 or 1997. Therefore, we question the appropriateness of the charges of \$3,927.36 identified on the invoices reviewed.

Listed below are the six invoices containing questioned costs. The identified questioned costs were calculated by applying the applicable rate for that category to that category's labor content as billed on the invoice. As such, the questioned cost only represents that part of the invoice that relates to the category being questioned.

<u>Project/Invoice Division/Customer No.</u>	<u>Invoice Amount</u>	<u>Rate Billed</u>	<u>Questioned Cost</u>
8882115/97023036305 Mid-Atlantic - 00324	\$3,945.18	28.33%	\$1,117.67
861663/97023041009 Mid-Atlantic - 0003	\$9,215.50	28.33%	\$2,610.75
861686/97023021018 Mid-Atlantic - 0006	\$259.44	28.33%	\$73.50
892021/98023012032 Mid-Atlantic - 0081	\$335.27	22.65%	\$75.94
861686/97023041009 Mid-Atlantic - 0006	\$124.86	22.65%	\$28.28
861645/98023021006 Mid-Atlantic - 0005	\$93.69	22.65%	\$21.22
Totals:	\$13,973.94		\$3,927.36

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RECOMMENDATION 3:

We recommend that Amtrak review all invoices submitted during the 1997-1998 period to identify excess reimbursements received due to charges for any approved rate categories and remit all overpayments to the agency charged.

Amtrak's Response

The rate identified by the independent accountant represents the sum of the "system" and the "division" rates for Maintenance of Way. Amtrak applied this rate to engineering project management salaries, clerical wages, and overtime expenses that were billable to Amtrak's customers. The engineering rate was an established rate category and was charged, when applicable, on invoices in FY 1996 and, therefore, was an allowable charge for FY 1997 and 1998.

OIG Comment

Upon review of the explanation of the application for this additional rate, if Amtrak obtains approval for the use of FY 1996 rates, we do not take exception of those same rates being applied in FYs 1997 and 1998.

2003 MAR 25 PM 11:38



March 19, 2003



Mr. Charles C. Maddox, Esq.
Inspector General
District of Columbia Government
Office of the Inspector General
717 14th Street, N.W., 5th Floor
Washington, DC 20005

Dear Mr. Maddox:

The following are Amtrak's comments related to the draft audit report summarizing the results of the Office of the Inspector General's (OIG) Independent Accountant's report on Applying Agreed-Upon Procedures on Corporate Labor Additive Rates for the years ended September 30, 1998 and 1997 for the National Railroad Passenger Corporation (Amtrak).

Proposed revisions / comments:

Page 1 – Executive Summary:

"Amtrak has developed its labor surcharge based upon historical cost and budget data..."

The labor surcharge applied to contract billings in 1997 and 1998 were based on historical, not budget data.

Page 2:

"The rate is applied to total project costs including total additive applicable to labor and material handling additive, if any. In fiscal year 1997, the "general and administrative" rate was split into two parts, NEC and General and Administrative (G&A) Overhead."

Amtrak recommended revision:

The rate is applied to total project costs including total additive applicable to labor and material handling additive, if any. In fiscal year 1996, in order to reflect the Company's reorganization into strategic business units (SBUs), the "general and administrative" rate was split into separate "SBU Support" overhead rates to reflect the NEC, Intercity, West and Corporate SBUs' general and administrative support functions.

Mr. Charles C. Maddox, Esq.
March 19, 2003
Page 2

Page 2 – Divisions and Locations:

North East Corridor (NEC) is listed as a “division” and a “location”. The NEC is a strategic business unit (SBU) and should not be included in these categories. I recommend that your list be revised as follows:

<u>Strategic Business Units</u>	<u>Divisions</u>
Northeast Corridor	Mid Atlantic
Intercity	Metropolitan
Western	New England
Corporate	Midwest
	Western

Page 5 – Recommendation 1

Amtrak's response:

In 1996 Amtrak underwent a reorganization which resulted in a change in personnel. Personnel shortages were the primary reason that no new overhead additives were developed for fiscal years (FY) 1997 or 1998, and the audited FY 1996 rates were applied to billable charges that were incurred during those years. However, there were no significant differences between the total expense and cost pools used to compute the FY 1996 rates and the actual expenses for FY 1997 and 1998.

Amtrak will seek approval from the FHWA for the use of the FY 1996 rates in FY 1997 and 1998.

Page 6 - Recommendation 2

Amtrak's response:

Subsequent to the audit period covered in your report, Amtrak has implemented a new billing system that automates the application of overhead rates to invoices and ensures their consistent application. Invoices are audited on a random basis to ensure that the rates applied to billings are accurate. Additionally, in 1998, Amtrak hired a Finance Manager whose primary responsibility is the annual calculation of overhead additive rates.

Mr. Charles C. Maddox, Esq.
March 19, 2003
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Page 8 – Recommendation 3

Amtrak's response:

The Engineering rate represents the sum of the "system" and the "division" rates for Maintenance of Way. This rate was applied to Engineering project management salaries, clerical wages and overtime expenses that were billable to Amtrak's customers. The Engineering rate was an established rate category and was charged, when applicable, on invoices in FY 1996. Therefore, it was not an inappropriate charge for FY 1997 or 1998.

William Auve, Senior Director Audit & Financial Control, will be my representative at the exit conference. Please contact him at (215) 349-1063 to arrange a convenient time and date.

Sincerely,



Deno Bokas
Chief Financial Officer

cc: William Auve
Nancy Miller